

Darryl L. Jones, Esq.
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Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

Sally C. Purser,)	
)	
Plaintiff,)	
)	
vs.)	
)	
Josef F. Boehm, et al.,)	
)	
Defendants.)	
		Case No. A05-0085 CV (JKS)

AFFIDAVIT OF COUNSEL

STATE OF ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

Darryl L. Jones, being first duly sworn, deposes and states as follows:

1. I am counsel for the plaintiff in the above captioned matter and this affidavit is submitted in support of a motion for sanctions against defendant.

2. On 10 November 2005, the Court entered a scheduling and planning order which required preliminary disclosures, including a preliminary witness list, to be provided in compliance with Rule 26(a)(1). The preliminary disclosures were due on December 15, 2005. Expert witness disclosures were due within 90 days of the closure of discovery, and although later extended, discovery initially closed on 16 November 2006. The final witness list was due on September 16, 2006 and only those witnesses listed on the final witness list would be allowed to testify at trial.

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3. Defendants have never provided the initial disclosures. They have not filed either a preliminary or a final list of lay and expert witnesses. They have not given the name and, if known, the address and telephone number of each individual likely to have discoverable information related to any claims or defenses.

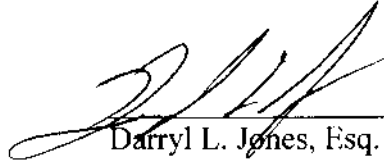
4. Defendants have never provided a copy of, or a description by category and location of, all documents, and tangible things that are in their possession, custody, or control. In fact, when specifically requesting copies of documents, the defendants have done nothing but object and tell the plaintiff to go find the documents herself. Plaintiff requested that defendant produce a copy of all the transcripts prepared on his behalf by his Criminal Defense Team and for purposes of appeal to the Court of Appeals for the Ninth Circuit. Defendants' response was essentially, go get them yourself. Exhibit A.

5. When we inquired as to the disclosures, we were told by Boehm's counsel that they had boxes of documents and we would be getting copies, but we had not yet received any disclosures from defendants.

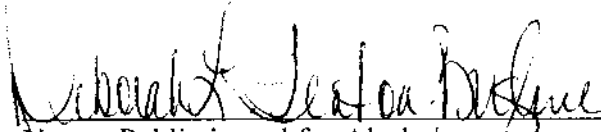
6. I believe defendant Boehm has taken an obstructionist position with regard to discovery aimed at "sandbagging" the plaintiff and evidence as to the accuracy of my belief came to light in the recent deposition of plaintiff and the recent opposition to summary judgment. During the deposition of plaintiff, Boehm's counsel used transcript of investigator interviews to cross examine Purser and he used transcripts of her grand jury testimony. None of that information was produced or identified prior to the deposition, which impeded plaintiff's ability to prepare. In opposing summary judgment, Boehm has relied on affidavits from witnesses that have never been identified in disclosures or on any witness lists and he has relied on a defense of mental disease or incapacity that has never been asserted or identified in disclosures.

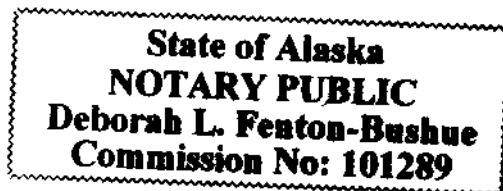
7. Defendant Boehm has clearly acted in bad faith in sandbagging the plaintiff by failing to provide initial disclosures many months ago, by failing to identify defenses, by withholding documents and the names of potential witnesses and by failing to file witness lists with the Court.

DATED this 11th day of January 2007.


Darryl L. Jones, Esq.
Counsel for the Plaintiff

SUBSCRIBED AND SWORN to before the undersigned notary public in and for Alaska
this 11th day of January 2007 at Anchorage.


Notary Public in and for Alaska
My Commission Expires: 8/19/09



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16000 Ventura Boulevard, PH 1208
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818 995 1195
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Attorney for Josef F. Boehm

~~EXHIBIT~~

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IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA
AT ANCHORAGE

SALLY C. PURSER,

Plaintiff,

v.

JOSEF F. BOEHM, ALLEN K.
BOLLING and BAMBI TYREE

Defendants.

)
)
) DEFENDANT JOSEF BOEHM'S RESPONSE
) TO PLAINTIFF'S SECOND SET OF
) DISCOVERY

)
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)
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) CASE NO.: 3:05-CV-0085-JKS

GENERAL STATEMENT

Responding Party has not fully completed his investigation of the facts relating to this case, has not fully completed his discovery in this action, and has not completed his preparation for trial. All of the Responses contained herein are based upon only such information and documents as are presently available to and specifically known to this Responding Party, and discloses only those contentions which presently occur to such Responding Party. It is anticipated that further discovery, independent investigation, legal research and

1 analysis will supply additional facts, adding meaning to known facts,
2 as well as establish entirely new factual conclusions and legal
3 contentions, all of which may lead to substantial additions to,
4 changes in, and variations from the contentions set forth herein. The
5 following Responses are given without prejudice to Responding Party's
6 right to produce evidence of any subsequently discovered fact or
7 facts, documents or tangible things, which this Responding Party may
8 later recall or discover. Responding Party accordingly reserves the
9 right to change any and all Responses herein as additional facts are
10 ascertained, analyses are made, legal research is completed, and
11 contentions are made. The Responses contained herein are made in a
12 good faith effort to supply as much factual information, documents,
13 tangible things, and as much specification of legal contentions as is
14 presently known, and should in no way be to the prejudice of
15 Responding Party in relation to further discovery, research or
16 analysis.

17
18
19 RESPONSE TO REQUESTS FOR PRODUCTION OF DOCUMENTS

20 RESPONSE TO REQUEST FOR PRODUCTION NUMBER 1:

21 Objection, irrelevant and not reasonably calculated to lead to
22 the discovery of admissible evidence. Objection, burdensome.
23 Plaintiff's request is not relevant to determine Defendant's liability
24 nor is it relevant to prove Plaintiff's damages.

25 Without waiving the aforementioned request, responding party
26 responds as follows.

27 The requested documents are public record and are equally
28 available to plaintiff. The documents can be obtained by calling the
clerk of the Court and requesting a copy.

December 18, 2006

KENNER LAW FIRM, A.P.C.

By:

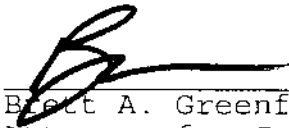

Brett A. Greenfield
Attorney for Josef Boehm

EXHIBIT 1
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1 CERTIFICATE OF SERVICE

2 I HEREBY CERTIFY that on this 8th day of December, 2006. I caused
3 a true and correct copy of the foregoing RESPONSE TO PLAINTIFF'S
4 SECOND SET OF DISCOVERY REQUESTS to be delivered to the following via
5 United States Certified Mail:

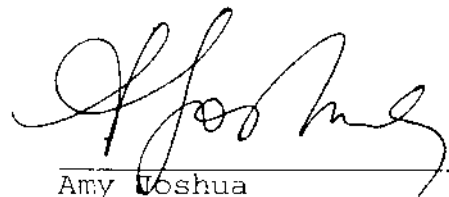
6
7 Bambi Tyree
8 Inmate No: 13016-006
9 FCI Dublin
10 5701 8th Street-Camp Parks
11 Dublin, CA 94568
12 C.M. No.: 7002 2410 0006 6742 2539

10 Allen K. Bolling
11 Inmate No: 14911-006
12 USP Terre Haute
13 U.S. Penitentiary
14 P.O. Box 12015
15 Terre Haute, IN 47801
16 C.M. 7002 2410 0006 6742 2188

14
15 Darryl L. Jones
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18 733 W. 4th Avenue, Suite 200
19 Anchorage, Alaska 99501
20 (907) 561-7743
21 (907) 562-8977 - fax

20 Date: December 18, 2006


Amy Joshua

22
23
24
25 EXHIBIT 1

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27
28

DARRYL L. JONES

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VIA FACSIMILE AND U.S. MAIL

December 7, 2006

Brett A. Greenfield
Kenner Law Firm, P.C.
16000 Ventura Blvd., Penthouse 1208
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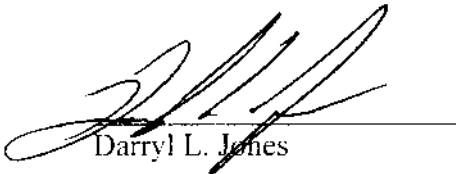
RE: Purser v. Boehm

Dear Mr. Kenner:

I am in receipt of your fax of today's date indicating the time and place for Ms. Purser's depositions.

It is regrettable that you have misinterpreted Judge Singleton's Order. There was no additional 45 day for witnesses or expert designations. It is our interpretation that Docket 26 governs the deadlines in this matter. In our opinion, the only deadlines extended were related to additional Discovery. In addition, my client has not been provided any Initial Disclosures, Supplemental Disclosures, a Preliminary Witness List or a Final Witness List. In short, Ms. Purser has received absolutely nothing from opposing counsel.

Respectfully,


Darryl L. Jones

CC: Pamela Sullivan
Client

EXHIBIT 2
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